

MEMORANDUM

December 8, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: PHILIP S. MILLER
Assistant County Counsel
General Litigation Division

RE: **Martin Davis v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. BC 295561

DATE OF
INCIDENT: May 13, 2002

AUTHORITY
REQUESTED: \$375,000

COUNTY
DEPARTMENT: Sheriff

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☐

Recommend to Board of
Supervisors for Approval

_____, Chief Administrative Office
ROCKY ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2006

SUMMARY

This is a recommendation to settle for \$375,000, the lawsuit of Martin Davis for injuries he sustained when he was repeatedly kicked in the head by inmate Joseph Allen, while he was in a cell with Mr. Allen, at the Clara Shortridge Foltz Criminal Courts Building.

LEGAL PRINCIPLES

The County is liable under the Federal Civil Rights Act for injuries inflicted on an inmate while in the County's custody. A person who proves a violation of his civil rights is also entitled to an award of attorneys' fees. The County is also liable if its employees inflict emotional distress on jail inmates.

SUMMARY OF FACTS

Martin Davis was an inmate confined at Men's Central Jail on May 13, 2003. On that date, he was transported to the Clara Shortridge Foltz Criminal Courts Building to testify against another inmate. Mr. Davis and the other inmate had been classified as keep-aways from each other, which meant that they should not at any time be located in the same cell.

After Mr. Davis had completed his testimony regarding the other inmate, he was returned to the service level of the building, pending his transfer back to Men's Central Jail. Sometime after Mr. Davis was placed in a holding cell, the other inmate was also placed in the same cell. The other inmate apparently recognized Mr. Davis and attacked him with his feet, while Mr. Davis slept on the floor, until other inmates in the cell called Deputies to the scene.

The Sheriff's Department conducted a thorough investigation of the incident. However, due to the high volume of inmates who are processed through the system each day, and the fact that no electronic tracking of inmate movement occurs once the inmates are actually in the building, it was impossible to determine how the other inmate came to be placed in the cell with Mr. Davis.

Subsequent to this incident, the Sheriff's Department has instituted a system in which a sign is placed on the entry door to each cell in the Criminal Courts Building at the time any keep-away is placed in that cell.

DAMAGES

Mr. Davis was transported from the Criminal Courts Building to LAC+USC Medical Center, where he was hospitalized for more than a week. For

the first three days of his stay in the hospital, Mr. Davis was in a shallow coma. Once his condition was stabilized, he was returned to the general population at Men's Central Jail, where he was able to ambulate with the use of crutches. Shortly thereafter, Mr. Davis was released from custody.

Discovery during this litigation discloses that Mr. Davis has received no acute medical treatment for his injuries subsequent to his release from custody. However, examination by a neuropsychologist retained by the County revealed that he suffered a closed head injury with residual short-term memory impairment.

Should this matter proceed to trial, we anticipate Mr. Davis will offer evidence of damages as follows:

Past medical expenses	\$ 83,000.00
Future medical expenses	\$ 140,000.00
Emotional distress	<u>\$1,000,000.00</u>
Total	\$1,223,000.00

STATUS OF CASE

Trial was initially scheduled in October of this year. The trial date was continued to allow action on this proposed settlement.

The terms of the settlement provide that Mr. Davis will receive \$200,000, and his attorneys will receive \$175,000 as their fees and costs.

Expenses incurred by the County in defense of this matter are attorneys' fees in the amount of \$95,935.67 and costs in the amount of \$15,735.57. A significant portion of the fees were incurred defending 15 depositions and resisting three motions seeking access to individual Deputies' personnel records.

EVALUATION

The injuries suffered by Mr. Davis at the hands of his assailant would not have occurred had the Sheriff's keep-away policy been strictly observed. Although there is a question as to exactly when and how Mr. Davis' assailant arrived in the holding cell, there is no question that he should not have been in the cell when Mr. Davis was present. A jury might reasonably conclude that only a failing on the part of Sheriff's Deputies could have resulted in the two being in the cell together.

Should a jury conclude Mr. Davis' civil rights were violated by the failure to carry out the Sheriff's policy, he would be entitled to an award of attorneys' fees for the violation of his civil rights.

We believe a jury award, including attorneys' fees, could well exceed the recommended settlement amount. The Sheriff's Department concurs with the recommended settlement.

APPROVED:

PHILIP S. MILLER
Assistant County Counsel
General Litigation Division

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